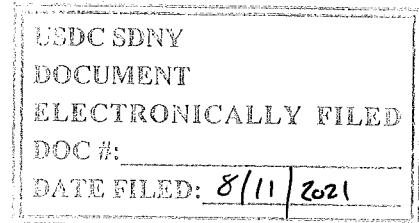


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
PERRY CUTTINO,

Plaintiff,

v.

DUTCHESS COUNTY COMMUNITY
COLLEGE ASSOCIATION, INC.;
DUTCHESS COUNTY COMMUNITY
COLLEGE; PAMELA EDINGTON;
BRIDGETTE ANDERSON; DUTCHESS
COUNTY, NEW YORK; and JOHN DOES 1-
10,Defendants.
-----X**ORDER OF DISMISSAL**

19 CV 3850 (VB)

On July 30, 2021, the Court ordered plaintiff to show cause in writing why this case should not be dismissed for failure to prosecute and comply with Court orders (the "Order to Show Cause"). (Doc. #91). The docket indicates that notice of the Order to Show Cause was electronically transmitted to plaintiff's counsel at the email address registered with the Clerk's office for the purpose of receiving electronic notifications on the district's Case Management/Electronic Case Filing system.

Plaintiff's response to the Order to Show Cause was due on August 6, 2021. To date, plaintiff has failed to respond to the Order to Show Cause.

A Court must consider five factors in determining whether to dismiss a case pursuant to Rule 41(b). See Lucas v. Miles, 84 F.3d 532, 535 (2d Cir. 1996). These are: "(1) the duration of the plaintiff's failure to comply with the court order, (2) whether plaintiff was on notice that failure to comply would result in dismissal, (3) whether the defendants are likely to be prejudiced by further delay in the proceedings, (4) a balancing of the court's interest in managing its docket with the plaintiff's interest in receiving a fair chance to be heard, and (5) whether the judge has adequately considered a sanction less drastic than dismissal." Id.

As stated in the Order to Show Cause, plaintiff has consistently failed to abide by Court orders and Court-ordered deadlines throughout the pendency of this case. And the Court has repeatedly imposed sanctions less drastic than dismissal by, for example, denying plaintiff's requests for additional extensions. (See, e.g., Docs. ##47, 81). As the Court has already concluded, defendants have and will continue to suffer prejudice. Plaintiff's continued and repeated failure to diligently prosecute this action has unduly delayed the disposition of motions and the completion of discovery. Moreover, the Court has given plaintiff ample opportunity to litigate this case despite these delays. Furthermore, the Court has been forced to expend considerable additional time and resources managing this case as a result of plaintiff's repeated failures.

Accordingly, having considered the factors listed in Lucas v. Miles, it is hereby ORDERED that this case is DISMISSED.

The Clerk is instructed to terminate all pending motions and close the case.

Dated: August 11, 2021
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti", written over a horizontal line.

Vincent L. Briccetti
United States District Judge